



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: February 13, 2024
MOAHR Docket No.: 23-008904
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned administrative law judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a hearing was held via telephone conference line on February 7, 2024. Petitioner did not participate and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Dania Ajami, lead specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medicaid and Medicare Savings Program (MSP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of September 2023, Petitioner was an ongoing recipient of Medicaid and MSP benefits.
2. On October 25, 2023, MDHHS terminated Petitioner's application for Medicaid eligibility beginning November 2023 due to excess assets.
3. On November 8, 2023, MDHHS terminated Petitioner's application for MSP eligibility beginning October 2023 due to Petitioner not meeting program requirements.

4. On November 28, 2023, Petitioner requested a hearing to dispute the termination of Medicaid and MSP benefits.

CONCLUSIONS OF LAW

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute terminations of Medicaid and MSP benefits.¹ Exhibit A, p. 3. A Health Care Coverage Determination Notice dated October 25, 2023, stated that Petitioner's Medicaid eligibility would end November 2023 due to excess assets. Exhibit A, pp. 9-11. A Health Care Coverage Determination Notice dated November 8, 2023, stated that Petitioner's Medicaid eligibility would end October 2023 due to Petitioner not meeting the program's requirements.² Exhibit A, pp. 5-8.

Medicaid is also known as MA. The MA program comprise several sub-programs or categories. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105 (April 2017), p. 1.

Assets must be considered in determining SSI-Related MA eligibility. BEM 400 (October 2020) p. 1 and 6. SSI-Related Medicaid eligibility considers assets. *Id.*, p. 3. Countable assets include cash. *Id.*, p. 2. There is no asset test for MAGI-related Medicaid categories. *Id.*, p. 3.

MDHHS presented no evidence to support the reasons for Medicaid or MSP termination. Instead, MDHHS simply acknowledged that both Medicaid and MSP cases were erroneously closed. Given the evidence, MDHHS improperly terminated

¹ Petitioner testified he additionally sought a hearing to pursue disciplinary action against a MDHHS worker. Petitioner's stated reason for hearing will not be considered for two reasons. First, MDHHS did not provide MDHHS with proper notice by including the reason in the written hearing request. Secondly, complaints about workers are not within the jurisdiction of the Michigan Office of Administrative Hearings and Rules and should be filed with MDHHS. Michigan Administrative Code, Rule 792.11002(3).

² Oddly, the notice also stated that Petitioner's MSP eligibility would end November 2023 due to excess assets. If MSP was going to end the benefits beginning October 2023, seemingly there is no reason to terminate the benefits again in November 2023.

Petitioner's Medicaid eligibility beginning October 2023 and Petitioner's MSP eligibility beginning November 2023.

As a remedy for an improper benefit termination, Petitioner is entitled to a reinstatement of MA and MSP benefits. MDHHS's testimony indicated that Medicaid and MSP cases were active for Petitioner. However, MDHHS presented insufficient corroboration that Medicaid and MSP cases were open.³ To ensure Petitioner's ongoing eligibility, MDHHS will be ordered to reinstate MA and MSP benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's Medicaid and MSP eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's MSP eligibility beginning October 2023 subject to the finding that MDHHS failed to establish a basis for closure;
- (2) Reinstate Petitioner's Medicaid eligibility beginning November 2023 subject to the finding that MDHHS failed to establish a basis for closure; and
- (3) Issue supplements and notice in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/nr



Christian Gardocki
Administrative Law Judge

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

³ A Health Care Coverage Determination Notice dated December 8, 2023, did state that Petitioner was eligible for Medicaid beginning November 2023. Exhibit A, p. 20. This document suggests that Medicaid was reinstated; however, because MSP was not verified as also reinstated, an order ensuring Medicaid and MSP reinstatement is sensible.

Via-Electronic Mail :

DHHS

Caryn Jackson
Wayne-Hamtramck-DHHS
12140 Joseph Campau
Hamtramck, MI 48212
**MDHHS-Wayne-55-
Hearings@michigan.gov**

Interested Parties

Wayne 55 County DHHS
BSC4
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MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
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